

2001 Assembly Bill 60

Date of enactment: **December 3, 2001**
Date of publication*: **December 17, 2001**

2001 WISCONSIN ACT 33

AN ACT *to repeal* 944.205 (1) (a), 944.205 (1) (c) and 944.205 (2) (b); *to renumber* 944.205 (1) (intro.), 944.205 (1) (b) and 944.205 (2) (intro.); *to renumber and amend* 944.205 (title), 944.205 (2) (a) and 944.205 (3) and (4); and *to create* 895.50 (2) (d), 942.09 (1) (a), 942.09 (1) (c) and 942.09 (2) (b) and (c) of the statutes; **relating to:** the prohibition against making, possessing, distributing, or exhibiting a representation that depicts nudity; the civil cause of action for unreasonable invasion of privacy; and providing a penalty.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 895.50 (2) (d) of the statutes is created to read:

895.50 (2) (d) Conduct that is prohibited under s. 942.09, regardless of whether there has been a criminal action related to the conduct, and regardless of the outcome of the criminal action, if there has been a criminal action related to the conduct.

SECTION 2. 942.09 (1) (a) of the statutes is created to read:

942.09 (1) (a) "Captures a representation" means takes a photograph, makes a motion picture, videotape, or other visual representation, or records or stores in any medium data that represents a visual image.

SECTION 3. 942.09 (1) (c) of the statutes is created to read:

942.09 (1) (c) "Representation" means a photograph, exposed film, motion picture, videotape, other visual representation, or data that represents a visual image.

SECTION 4. 942.09 (2) (b) and (c) of the statutes are created to read:

942.09 (2) (b) Makes a reproduction of a representation that the person knows or has reason to know was captured in violation of par. (a) and that depicts the nudity depicted in the representation captured in violation of par. (a), if the person depicted nude in the reproduction did not consent to the making of the reproduction.

(c) Possesses, distributes, or exhibits a representation that was captured in violation of par. (a) or a reproduction made in violation of par. (b), if the person knows or has reason to know that the representation was captured in violation of par. (a) or the reproduction was made in violation of par. (b), and if the person who is depicted nude in the representation or reproduction did not consent to the possession, distribution, or exhibition.

SECTION 5. 944.205 (title) of the statutes, as affected by 2001 Wisconsin Act 16, is renumbered 942.09 (title) and amended to read:

942.09 (title) Recordings showing Representations depicting nudity.

SECTION 6. 944.205 (1) (intro.) of the statutes, as affected by 2001 Wisconsin Act 16, is renumbered 942.09 (1) (intro.).

SECTION 7. 944.205 (1) (a) of the statutes, as created by 2001 Wisconsin Act 16, is repealed.

* Section 991.11, WISCONSIN STATUTES 1999-00 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

SECTION 8. 944.205 (1) (b) of the statutes, as affected by 2001 Wisconsin Act 16, is renumbered 942.09 (1) (b).

SECTION 9. 944.205 (1) (c) of the statutes, as created by 2001 Wisconsin Act 16, is repealed.

SECTION 10. 944.205 (2) (intro.) of the statutes is renumbered 942.09 (2) (intro.).

SECTION 11. 944.205 (2) (a) of the statutes, as affected by 2001 Wisconsin Act 16, is renumbered 942.09 (2) (a) and amended to read:

942.09 (2) (a) ~~Records an image of~~ Captures a representation that depicts nudity without the knowledge and consent of the person who is depicted nude while that person is nude in a place and circumstance in which he or she has a reasonable expectation of privacy, if the person ~~recording the image~~ knows or has reason to know that the person who is depicted nude does not know of and consent to the recording capture of the representation.

SECTION 12. 944.205 (2) (b) of the statutes, as affected by 2001 Wisconsin Act 16, is repealed.

SECTION 13. 944.205 (3) and (4) of the statutes, as affected by 2001 Wisconsin Act 16, are renumbered 942.09 (3) and (4) and amended to read:

942.09 (3) Notwithstanding sub. (2) (a) ~~and (b), and (c),~~ if the person depicted nude in a recording of an image representation or reproduction is a child and the ~~record-~~

~~ing, copying capture,~~ possession, exhibition, storage, or distribution of the ~~recording representation, or making, possession, exhibition, or distribution of the reproduction,~~ does not violate s. 948.05 or 948.12, a parent, guardian, or legal custodian of the child may do any of the following:

(a) ~~Record, copy, Capture and~~ possess, ~~exhibit, or store the recording representation or make and possess the reproduction depicting the child.~~

(b) Distribute ~~a recording that was recorded, copied, possessed, exhibited, or stored~~ or exhibit a representation captured or possessed under par. (a), or distribute or exhibit a reproduction made or possessed under par. (a), if the distribution or exhibition is not for commercial purposes.

(4) This section does not apply to a person who receives a ~~recording of an image representation or reproduction~~ depicting a child from a parent, guardian, or legal custodian of the child under sub. (3) (b), if the possession, ~~copying,~~ exhibition, ~~storage,~~ or distribution is not for commercial purposes.

SECTION 14. Initial applicability.

(1) The treatment of section 895.50 (2) (d) of the statutes first applies to acts or omissions occurring on the effective date of this subsection.